

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 19 of 1997

in

SPECIAL CIVIL APPLICATION No 10846 of 1996

For Approval and Signature:

Hon'ble THE ACTING CJ R.A.MEHTA and
MR.JUSTICE C.K.THAKKER

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANUBHAI NARANBHAI KOTADIA

Versus

AMRELI JILLA SAHAKARI KHARID

Appearance:

MR BM MANGUKIYA for Petitioner
MR JAYANT PATEL for Respondent No. 1

CORAM : THE ACTING CJ R.A.MEHTA and
MR.JUSTICE C.K.THAKKER

Date of decision: 10/01/97

Admitted. Mr. Jayant Patel waives service on behalf of respondent nos.1 and 2 for the original petitioners.

The appellant-original respondent no.6 is aggrieved by the order of the learned Single Judge dt. 1st January 1997 granting ad.interim relief in terms of para 9(B) of the petition while making rule returnable on January 13, 1997. By that order of 1st January 1997 the election which was to be held on 9th January 1997 has been stayed.

The learned counsel for the appellant submits that in matters of election ordinarily interim relief of the injunction or stay is not granted and it would be very extra ordinary rare thing to grant interim relief ex parte. It is also submitted that there was sufficient time to issue notice and give opportunity of hearing to the respondent even before the date of election. It is, therefore, submitted that the learned Single Judge has erred in exercising judicial discretion in such matters.

Since the matter is to be heard before the learned Single Judge on merits we did not express any opinion on merits at this stage. However, we think that in such matters of election interim relief cannot be granted except in extra ordinary facts and circumstances and that also after notice and reasonable opportunity to the otherside.

We, therefore, allow this appeal and set aside the interim relief granted by the learned Single Judge. However, we direct that the meeting be held and election also be held. However, the result of the election shall not be implemented till 30th January 1997. In the meanwhile it is open to the parties to proceed with the final hearing before the learned Single Judge. Appeal is allowed accordingly. No order as to costs.

Dt.10.1.1997. (R.A.MEHTA ACT. CJ)

(C.K.THAKKER J.)